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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,228	11/22/2000	Hiroyuki Kanemitsu	04739.0069	1506

22852 7590 06/01/2004

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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WASHINGTON, DC 20005

EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 06/01/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/717,228

Applicant(s)

KANEMITSU, HIROYUKI

Examiner

Victor R. Kostak

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6 and 11 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7-10, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's arguments filed on 5/13/04 have been fully considered but they are not persuasive, explained as follows in reference to the newly recited features, particularly in both independent claims 1 and 11.

The examples of teaching demonstrations and conferences given by Tseung (noting col. 8 line 64 – col. 9 line 14, referred to in the last Office action) requires predetermined scheduling. These demonstrations and conferences can very reasonably be considered programs, and furthermore, they are broadcast (as the overall system concept involves broadcasting various data).

As was also explained in the last Office action, substituted correct broadcast content is requested (i.e. what one of ordinary skill in the art can consider searched, scanned, sought or otherwise looked for) from an auxiliary station. Searching does not require or imply some kind of frequency scanning or multiple-route scanning. The request can be very reasonably considered a search, as implied herein.

As for applicant's argument that Tseung does not search for receiving another program with substantially the same content, that is not claimed by applicant and is not required to be inferred from the actual claim language which has been amended to recite an *alternative broadcast program*. The transmission of a corrected version of the broadcast program as requested (searched) by Tseung can very reasonably be designated or considered as an alternative broadcast program, simply because it is an alternative to that which turned out erroneous.

The rejection below, repeated from the last Office action, is presented for convenience and to consolidate all of the issues.

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2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6 and 11 stand rejected under 35 U.S.C. 102(b) as being anticipated by Tseung.

The comprehensive communication system of Tseung (noting particularly Figs. 1 and 2 and alternate embodiments in Figs. 72-81) enables broadcasting in point-to-multipoint or multipoint-to-multipoint arrangements (e.g. Abstract) of any of various data, and lists 15 different examples of data types, further allowing for any kind beyond those listed (col. 8 line 64 – col. 9 line 14). A receiving station (i.e. general participant station) 24 can receive, store and/or record a desired broadcast data, which data is inherently identified by a code (in order to inform both the transmitting and receiving stations its unique identity), as well as typically being designated by a title or other identifier. The data request is sent to retransmission station 20, and if the broadcast content received (stored, recorded) at station 24 from station 20 is erroneous, a substituted correct broadcast content is requested (i.e. what one of ordinary skill in the art can consider searched, scanned, sought or otherwise looked for) from an auxiliary station, namely playback recorder station 26 (which serves as the claimed rerecord promote means), which accesses correct broadcast content from station 28. Station 26 thereby carries out the request, which effectively constitutes a reservation request for reception at a presumed time at station 24, for accurate reception/storage/recording, thereby meeting claims 1 and 11.

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As for claim 3, station 26 (rerecord promote means) inherently informs user station 24 of the alternate broadcast (at least by submitting the correct broadcast content thereto).

As for claim 6, the user station 24 does become aware of broadcast failure (e.g. text in lower third of the Abstract).

3. Claims 4, 5, 7-10, 12 and 13 remain allowable over the prior art.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this final action should be mailed to:

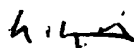
Box AF
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.



Victor R. Kostak
Primary Examiner
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